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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,189	03/01/2004	Charles John Call	MESO0070	3193

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EXAMINER	
RAMILLANO, LORE JANET	
ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
03/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/791,189	CALL ET AL.	
	Examiner	Art Unit	
	LORE RAMILLANO	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 December 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-7,21-24,29-38 and 43-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-7,21-24,29-38 and 43-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *3/1/04* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/31/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. In applicant's reply filed on 12/6/07, applicant amended claims 1, 5, 6, 7, 31, 32, 34, 35, 36; and added new claims 46-47. Claims 2, 8-16, 17-20, 25-28, and 39-42 are cancelled. Claims 1, 3-7, 21-24, 29-38, and 43-47 are pending and under examination.

Response to Amendment

Response to applicant's remarks regarding the Telephone Interview with Examiner on 11/30/07

2. In response to applicant's assertion that on p. 2 of the remarks, examiner did not expressly state that the functional limitations in the pending claims are irrelevant to the apparatus claims. Examiner pointed out to the applicant that the functional limitations are not sufficient to overcome the prior art since the prior art discloses the structural limitations of the claimed invention and are thus capable of performing the functions recited in the pending claims.

In response to applicant's assertion on p. 14 of the remarks, examiner did not intentionally or expressly or impliedly indicate that the functional language in the pending claims was dismissed. As stated above, examiner pointed out that the functional limitations are not sufficient to overcome the prior art since the prior art discloses the structural limitations of the claimed invention and are thus capable of performing the functions recited in the pending claims. With regard to the assertion that the examiner hid the fact about how the Office will interpret functional language with regard to apparatus claims, examiner did not intentionally hide any information with regard to functional language interpretation since examiner based her

interpretation of functional language on the MPEP (i.e. section 2114), which examiner believes is available online through the uspto.gov website.

Prior art rejections

3. In light of applicant's amendments, the 35 U.S.C. 102(b) rejection by Allen '286; 35 U.S.C. 102(e) rejections by Uziel ('147 and '567), Allen '751, Bryden, and Murray; and 35 U.S.C. 103(a) rejection over Bryden in view of Lin are withdrawn. Furthermore, the 35 U.S.C. 102(b) rejection by Call is withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 7, 21, 24, 33, and 47** are rejected under 35 U.S.C. 102(b) as being anticipated by Danylewych-May et al. ("Danylewych-May," US 5859375).

Danylewych-May discloses an air sensor device configured to collect airborne particles and to evaluate collected airborne particles in order to determine if the collected airborne particles indicate the presence of a biological threat, comprising: a regenerable solid collection surface for supporting a spot of immobilized airborne particles, the regenerable solid collection surface being specifically configured to remove particles from an air stream by impaction of the air stream against the regenerable solid collection surface; means for regenerating the regenerable solid collection surface by removing particles from the regenerable solid collection surface, such that once regenerated, the regenerable collection solid surface can collect additional

particles from the air, such that particles collected before regenerating the regenerable solid collection surface are substantially no longer present to contaminate particles collected after regeneration; and means for analyzing (i.e. detects biological signature such as mass spectrum, col. 1, lines 6-12) the spot of immobilized airborne particles while the particles remain disposed on the regenerable solid collection surface to determine if the spot of immobilized airborne particles represents a biological threat. (i.e. col. 5, line 35 to col. 6, line 55).

Danylewych-May further discloses that the device further comprises a liquid coating applicator configured to moisten the regenerable solid collection surface (i.e. col. 6, lines 1-7).

Danylewych-May teaches a method comprising: depositing airborne particles on a regenerable collection surface, measuring a biological signature present in the particles comprising the spot, determining a concentration of the immobilized airborne biological particles, and regenerating the regenerable collection surface by removing particles from the regenerable collection surface (i.e. col. 5, line 35 to col. 6, line 55).

Danylewych-May further teaches a method of detecting airborne biological particles, the method comprising the steps of: (a) depositing airborne particles on a regenerable solid collection surface provided for supporting a spot of immobilized airborne particles, such that the particles deposited on the regenerable solid collection surface form a spot; (b) subsequently, measuring a biological signature present in the particles comprising the spot, using a detector configured for sensing the biological signature of the particles, while the particles remain deposited on the regenerable solid collection surface; (c) determining a concentration of the immobilized airborne biological particles from the measurement of the biological signature in order to determine if the biological particles should be considered to represent a potential

biological threat; and (d) regenerating the regenerable solid collection surface by removing particles from the regenerable solid collection surface after step (c), so that once thus regenerated, the regenerable solid collection surface can collect additional particles from the air, such that particles collected before regeneration of the regenerable surface are substantially no longer present to contaminate particles collected after the regeneration. (i.e. col. 1, 6-12; col. 5, line 35 to col. 6, line 55).

Allowable Subject Matter

6. Claims 3-6, 22-23, 29-32, 34-38, and 43-46 allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record (Danylewych-May) fails to teach or fairly suggest comprising a spotting nozzle; the regenerable solid collection surface is part of an impaction plate; a fluorescence detector; a dichroic mirror; an excitation filter or emission filter; a brush, pad, wheel, nozzle, blade, means for electrostatically charging, or means for directing energy as a means for regenerating the regenerable solid collection surface, a processor, and an alarm in combination with the remaining features and elements of the claimed invention.

Response to Arguments

7. Applicant's arguments, see p. 14-23, filed 12/6/07, with respect to the rejection(s) of claim(s) 1, 3-7, 21-24, 29-38, and 43-45 over the following prior art: Allen ('286 and '751); Uziel ('147 and '567); Bryden; Murray; Call; and Bryden in view of Lin have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Danylewych-May.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LORE RAMILLANO whose telephone number is (571) 272-7420. The examiner can normally be reached on Mon. to Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jill A. Warden/
Supervisory Patent Examiner, Art Unit 1797

Lore Ramillano
Examiner
Art Unit 1797